

OGC 70-0100

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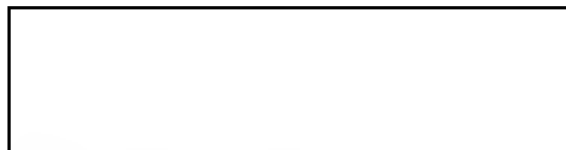
MEMORANDUM FOR THE RECORD

25X1 SUBJECT: Attachment 3 and BOB Circular A-56: Reimbursement for Expenses Incurred in the Sale of a Residence when Transferring PCS from one Domestic Station to Another

1. This memorandum is for information only, to establish a written record of basic research done by the undersigned in the subject area.
2. The question is whether the subject expenses are reimbursable in either of the following two hypothetical situations:
 - (1) An employee is transferred PCS from Post A to Post B. After several months at Post B he is again transferred PCS to Post C. Subsequent to this latter PCS transfer, the employee decides to sell his residence at Post A and in fact settles on the sale prior to one year from the date of his original PCS transfer from Post A to Post B.
 - (2) An employee is transferred PCS from Post A to Post B. After several months at Post B, he is again transferred PCS back to Post A. Subsequent to this latter transfer, he decides to sell his residence at Post A and in fact settles on the sale within the one year period beginning with the first PCS transfer from Post A to Post B.
3. In both of the above hypothetical situations, the employee has taken no steps to sell the residence prior to the second PCS transfer. With regard to situation (1), a review of the subject regulation and, in particular, the Comptroller General Decisions would suggest that the above question be answered in the affirmative. The Comptroller General Decisions while not directly on point,

strongly imply that the subject expenses would be reimbursable in situation (1). B-167178, 30 July 1969; B-163788, 7 June 1968. With regard to situation (2), there are currently no Comptroller General Decisions on point or which even suggest how it would be responded to. A review, however, of the legislative history indicates that the "intent" was to provide reimbursement for expenses incurred because an employee had to establish a new residence in a different location, i. e., the sale should be incident to transfer from the old to the new post. 2 U.S. Cong. & Admin. News, 89th Cong., 2d Sess., (1966) p. 2564. In situation (2), there is no need to sell the residence as there is no need to establish a new residence elsewhere.

4. The undersigned discussed in some detail the above two hypothetical situations with Mr. Pat Friend, Office of General Counsel, General Accounting Office. Mr. Friend advised that in his opinion the expenses incurred in situation (1) would be reimbursable, and those incurred in situation (2) would not. Mr. Friend further suggested that if the employee in situation (2) had commenced the process of sale prior to the PCS transfer from Post B back to Post A, reimbursement probably could be sustained.



Office of General Counsel

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